S.B. CRIMINAL MISC. PETITION NO.366/2006
(Abdul Shakur Vs. State)

Date of order : 11.5.2006

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Abdul Latif, for the petitioner.
Mr. Ashok Upadhyay, Public Prosecutor.
Mr. Munewar Khan, for the complainant.

By this criminal misc. petition under Section 482 Cr.P.C., the petitioner has prayed for quashing of criminal proceedings pending against him in the court of Judicial Magistrate No.7, Jodhpur in Criminal Case No.1100/2001 for offence under Section 498-A I.P.C.

Heard learned counsel for the the petitioner as well as learned Public Prosecutor and the learned counsel appearing on behalf of the complainant.

Learned counsel for the petitioner states that it is a matrimonial dispute between the parties which has resulted into criminal proceedings against the petitioner under Sections 498-A and 323 IPC pending before the trial court. Learned counsel for the petitioner states that compromise has arrived at in between the parties and now there is no dispute in between them. He further states that both the parties have submitted the compromise before the learned court below and prayed that criminal proceedings pending

against the petitioner be dropped. However, learned trial court has accepted the compromise as far as it relates to offence under Section 323 I.P.C. and refused to attest the compromise as far as it relates to offence under Section 406 I.P.C. He states that the learned trial court despite the fact that parties have entered into written compromise, has proceeded ahead in the criminal case pending against the petitioner.

In support of his arguments, learned counsel for the petitioner has placed reliance upon the judgment rendered by Hon'ble Supreme Court in case of B.S. Joshi & Ors. Vs. State of Haryana, reported in (2003) 4 SCC 675 and in case of Mohd. Shamim & Ors. Vs. Nahid Begum & Anr., reported in 2005 (1) WLC (SC) Criminal 281.

Learned counsel for the complainant has also submitted before me that comprise has arrived at in between both the parties. Therefore, criminal proceedings against the petitioner may be quashed.

I have considered the arguments made by learned counsel for the parties and gone through the record of the case.

I have also gone through the both the judgments cited by the learned counsel for the

petitioner.

` In case of B.S. Joshi & Ors. (supra), their Lordships while considering the object of introducing Chapter XX-A containing Section 498-A, have observed as under:

> "There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her to her relatives to satisfy unlawful demands of dowry. The hyper technical view would be counterproductive and would act against interest of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code".
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> "In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code".

In case of Mohd. Shamim & Ors. (supra), their Lordships have also quashed the FIR lodged against the appellants, taking into account the settlement arrived at in between the parties.

Taking into consideration the statement made by the learned counsel for the petitioner as well as

learned counsel for the complainant, I am satisfied that the parties have genuinely settled their matrimonial dispute and now they have no grievance against each other. In this view of the matter and taking into account the judgment rendered by Hon'ble Supreme Court in case of B.S. Joshi & Ors. (supra), I find it to be a fit case where inherent jurisdiction under Section 482 Cr.P.C. should be exercised.

For the reasons as stated hereinabove, I allow this misc. petition and quash the proceedings against the petitioner pending in the court of Judicial Magistrate No.7, Jodhpur in Criminal Case No.1100/2001 for offence under Section 498-A I.P.C.

(GOPAL KRISHAN VYAS), J.

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